THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23467 OF 2007

Dated 06-11-2007

Between:

M/s Hindustan Zinc Limited … Petitioner

And

The Assistant Commissioner (CT) LTU
And two others … Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23467 OF 2007

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties. With their consent, the writ petition is being disposed of at this stage.

The controversy is that pending appeal before the Sales Tax Appellate Tribunal, Visakhapatnam, application for stay filed by the petitioner was dismissed by the Joint Commissioner-the third respondent by order dated 11-09-2007.

We have gone through the record and heard learned counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of 50 per cent of the disputed tax by the petitioner. Therefore, we set aside the order of the third respondent, dated
11-09-2007, and direct that 50 per cent of the disputed tax shall be paid by the petitioner, within a period of four weeks. For four weeks, there shall be an unconditional stay of recovery of the disputed tax and the stay shall continue till disposal of the appeal, provided the amount is deposited within four weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed tax, while calculating the 50 per cent amount, the amount paid by the petitioner shall be given credit to.

The writ petition is accordingly disposed of. No costs.

_____

Bilal Nazki,J

Dated 6th November, 2007

_____

Ramesh Ranganathan,J

Note: Issue wire at party's cost

vrn